

Nottoway County Public Schools

Guidelines for Compliance with

Section 504 Requirements

Revised 1/8/2016

*For additional information please refer to SECTION 504:
Keys to Implementation in Virginia 's Schools
www.pen.k12.va.us
Division of Special Education and Student Services

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GUIDELINES FOR COMPLIANCE WITH: SECTION 504 OF THE REHABILITATION ACT

Introduction

Section 504 of the Rehabilitation Act of 1973 is the portion of the Act originally authorized under Public Law 93-112 that states "no otherwise qualified individual with a disability in the United States shall, solely by reason of his or her disability, be excluded from the participation in, or denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

Section 504 of the Rehabilitation Act is a civil rights law prohibiting discrimination on the basis of a disability. Local Education Agencies (LEA), like Nottoway County Public Schools as recipients of federal assistance, are prohibited from excluding students solely on the basis of a disability.

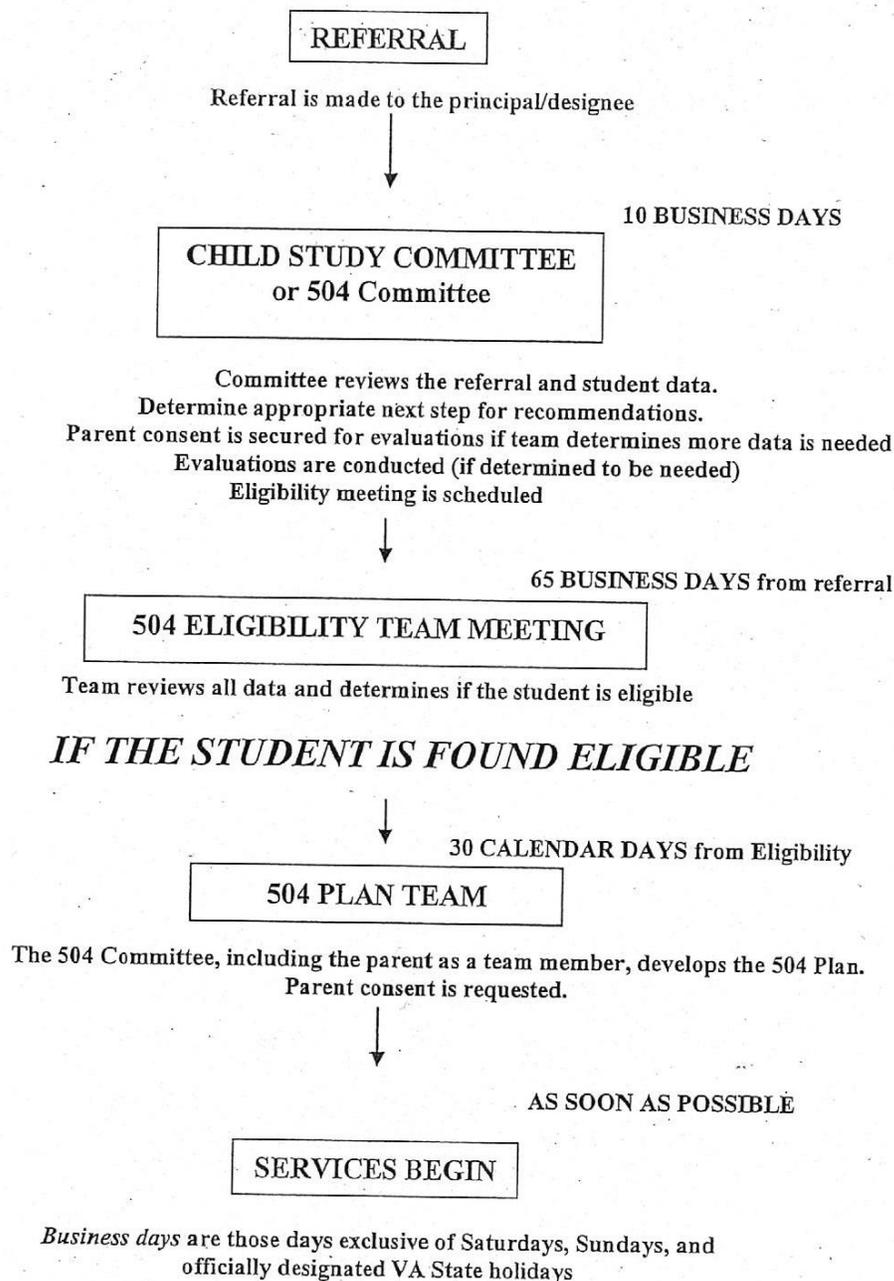
This law protects any person who

1. has a physical or mental impairment that substantially limits one or more major life activities;
2. has a record of such an impairment;
3. is regarded as having such impairment.

The law provides supports only for those who have a physical or mental impairment that substantially limits one or more major life activities. Students must meet the criteria for eligibility in order to qualify for a 504 Plan.

The following procedures are to be used in the referral, evaluation, eligibility processes and provision of services under 504.

TIMELINES FOR DETERMINATION



Referral

The following guidelines shall be implemented in order to determine whether a student is eligible under Section 504.

- A referral may be submitted by parents, school staff or outside professionals.
- The referral process should be initiated in response to any verbal or written request. The referring teacher or support person should complete the Nottoway County Public Schools Referral Form (IEP online) upon receipt of the request. A parent or outside professional may complete the form or may submit a written statement to be attached to the form. A verbal referral may be transcribed to the form by Nottoway County Public School staff member receiving the referral.
- Notify parent of the meeting to review the referral (Meeting Notification -IEP online).
- Although parental permission is not required to conduct a review of the referral, an effort should be made to ensure parental attendance, particularly when the parent is the referral source. Additionally, parents should be informed that the purpose for this meeting is to review the referral and to determine if further action is needed to meet their child's educational needs.

Review of Referral

Each school must develop a committee to review referrals. The committee must have an administrator/designee and at least one committee member should be knowledgeable of the child. Other appropriate committee members should be identified. This may include, but is not limited to, a teacher of the child, the school psychologist, school nurse, and guidance counselor. The committee should meet to review the information presented by the referral source. The committee should review all information available in the student's educational record and other relevant materials such as work samples, observation reports, medical reports, anecdotal records, interventions and reports and input provided by parent.

The following determinations are available to the committee:

1. There is no evidence of impairment - make recommendations for interventions if needed or appropriate;
2. Additional information is required to make a decision;
3. An impairment is suspected and referral is forwarded to the 504 Coordinator or school-based 504 Chairperson;
4. A disability is suspected and referral for evaluation under IDEA is made to the school-based Special Education Chairperson or Director of Exceptional Education.

Documentation of meetings is maintained in the student's educational record and should include:

1. Referral Form (Nottoway County Public Schools- IEP online).
2. Consideration of Evaluation (Nottoway County Public Schools -IEP online).

The record must include documentation that copies of these forms have been forwarded to parents if they were unable to attend.

Referral to 504 Eligibility Team

If the committee reviews the referral and determines the referral should be reviewed by the 504 Eligibility Team, the following occurs:

The 504 Eligibility Team:

- Reviews existing data and considers 504 Eligibility (See Eligibility).
- OR**
- Reviews existing data and determines that additional data is needed. Multiple sources of information should be considered by the 504 Eligibility Team. A single procedure should not be used as the sole criterion to determine the eligibility of the student.

Evaluations and Section 504

If the team determines further evaluations are necessary:

Section 504 does not require specific evaluation components. The 504 Eligibility Team, based on the needs of the individual student, will determine the evaluation process and/or components. The goals of the evaluation process are to provide accurate data, to determine whether or not impairment exists, what major life activity it impacts and to what extent, and to collect information that can be utilized to develop an appropriate accommodation plan if the student is determined eligible. The following guidelines should be adhered to during the evaluation process.

CONSENT	Written consent must be obtained from the parent prior to any evaluation. Upon receipt of the signed referral giving consent to evaluate, the 504 Chairperson should initiate assessment procedures by asking qualified personnel to begin evaluations. Consent should also be secured to obtain information from outside sources if appropriate.
TIMELINES	While 504 does not mandate a specified timeline for completion of evaluations, the evaluation and eligibility process should generally be completed within sixty-five (65) business days of the referral.
COMPONENTS	As part of an initial evaluation (if appropriate) and any re-evaluation the 504 Eligibility Team shall review existing evaluation data including evaluations and information provided by the parents of the student, current classroom-based assessments and observations, and teacher and related service providers' observations, and may request one or more of the following written components if needed: <ul style="list-style-type: none">• medical• psychological• educational• socio-cultural• others as appropriate to the student's suspected disability
TEST CRITERIA	Certain requirements should be met when specific tests are administered. Evaluators who conduct assessments must ensure that tests and other evaluation materials are: <ul style="list-style-type: none">o not used in a culturally or racially discriminatory manner;o provided and administered in the student's native language or other mode of communication, unless it is clearly not feasible to do so;o validated for the purpose for which they are used;o administered by trained personnel in conformance with the publisher's instructions.

TESTING

Tests and other evaluation materials include those tailored to assess specific areas of educational need, not merely those that are designed to provide a single general intelligence quotient. The tests selected ensure that when administered to a student with impaired sensory, manual, or speaking skills, the results accurately reflect the student's aptitude or achievement level or whatever factors the test purports to measure rather than reflecting the student's impaired sensory, manual, or speaking skills (except where the tests focus on those skills).

Eligibility

Following completion of necessary components, the school-based 504 Chairperson will schedule a 504 Eligibility Meeting. The 504 Eligibility Team shall be composed of a group of individuals knowledgeable about the child and the meaning of the evaluation data. The parent must be notified of the meeting and encouraged to participate.

Parental Notification and Involvement

A student's parent shall be notified before the 504 Committee evaluates a student who has been referred for a suspected disability pursuant to 504. The student's parent shall be given reasonable notice in writing (Meeting Notification- IEP online) of the 504 Committee meetings. The 504 Committee shall consider all relevant information concerning the student to determine whether he/she is disabled under Section 504.

Information Sources and Education Plan

Information may include reports from physicians, observation from parent, teachers, school personnel, results of standardized tests, etc. The 504 Committee shall determine whether the student is disabled under Section 504 and, if so, develop a written educational plan describing what accommodations will be provided to meet the student's needs. The determination and, if applicable, education plan of the 504 Committee shall be submitted to the parent in writing.

Triennial/Re-Evaluation

While 504 does not mandate a specific timeline for reviewing eligibility, Nottoway County Public Schools recommend that eligibility be reviewed for each student every three years. A re-evaluation may be considered at any time. The triennial review should be initiated prior to the third anniversary to give sufficient time for new evaluations to be conducted and/or new data to be collected if needed to determine eligibility.

Termination

If a 504 Eligibility Team determines at any time that a student does not meet criteria for eligibility, the 504 plan is terminated upon this decision. Parent consent is not required for termination of 504 plans.

Eligibility Determination

The 504 Eligibility Team reviews records/observations/evaluations and data collected and determines if the student is eligible under 504. The student must meet ALL THREE criteria to be eligible:

- Physical or mental impairment
- That limits a major life activity
- To a substantial extent.

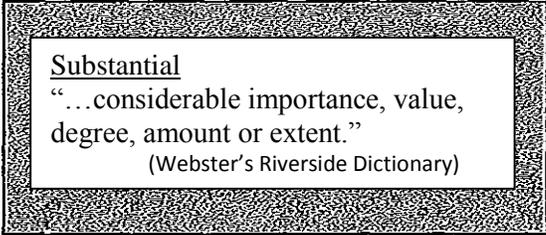
A physical impairment is a physiological condition, cosmetic disfigurement or anatomical loss that affects one or more of the body systems, such as: cardiovascular, muscular, skeletal, respiratory, digestive.

A mental impairment is a mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness or specific learning disability.

To meet the criteria for eligibility under 504, an individual must have an impairment that "substantially" limits a major life activity (i.e., an everyday activity) an average person can perform with little or no difficulty.

Examples of *everyday activities*:

- Walking
- Seeing
- Communicating
- Hearing
- Breathing
- Major bodily functions (functions of the immune system, normal cell growth, digestive, neurological, respiratory, circulatory, endocrine, and reproductive functions).
- Learning
- Reading
- Caring for oneself
- Working
- Concentrating



Substantial
"...considerable importance, value, degree, amount or extent."
(Webster's Riverside Dictionary)

If the team determines from the evidence the student has a physical or mental impairment that limits a major life activity, the team must identify the impairment and major life activity and determine the extent to which the impairment limits the major life activity.

The team must focus on the major life activity as a whole -not in a particular class or subject, or for a particular sub area. The team should use the average student in the general population as the frame of reference.

"Substantial limitation" means significantly restricted as to the condition, manner or duration under which an individual can perform a particular major life activity as compared to the condition, manner or duration under which the average person in the general population can perform the same major life activity.

The eligibility team cannot consider the corrective effects of mitigating measures. This includes, among other things, medication, hearing aids and cochlear implants, mobility devices and assistive technology. The use of ordinary eyeglasses or contact lenses is the only exception and may be considered in the determination of eligibility.

Documentation of 504 Eligibility

Use the 504 Eligibility Summary Report to document the eligibility decision.

Following eligibility, the administrator/designee shall provide the parent the written summary of the team's decision. A copy of any new evaluation report (s) used in the determination must be given to the parent.

All documents shall be maintained in the student's educational record.

For students who are determined eligible, the 504 Eligibility Summary Report shall be forwarded to the 504 Plan Committee for the development of the plan.

What Schools Can Do to Meet Needs of Students Who Are Ineligible for 504

The team may consider whether interventions or accommodations are appropriate for students who are not suspected of having a disability or who are found ineligible.

- Create a climate that provides for the reasonable needs of students without requiring a written plan whenever possible and appropriate. The administration may establish the expectation that teachers and staff make minor adaptations for a student when necessary and appropriate.
- Consider use of a written plan which is a valid agreement between school staff and parents that can provide appropriate accommodations. These may include, but are not limited to:
 - Child Study Plans/ Response to Intervention Plans
 - Health Services Plans involving school nurse, data from medical professionals and other school staff.

The student may be referred or re-referred to the Child Study Team to determine if an evaluation for IDEA/504 may be needed.

Case Manager Responsibilities

1. Contact the parent(s) to arrange a mutually agreeable time for the annual 504 plan meeting.
2. Send the parent notification of the 504 Plan meeting.
3. Identify and notify appropriate team members of the meeting.
4. Provide the parent with a copy of the 504 Plan and Procedural Safeguards.
5. Provide a copy of the 504 Plan to each current teacher and other staff as appropriate. This should occur within one week of the development of the plan and before the start of a new academic year.
6. Assist with the eligibility process when due.

Copies of the 504 Plan should be distributed as follows:

1. The original should be placed in the student's educational record.
2. A copy should be given to the parent.
3. A copy should be given to each current teacher and other appropriate staff members.

504 Plan Guidelines

A 504 Plan is required for each student determined to have a physical or mental impairment by the 504 Eligibility Committee.

The 504 Plan should be completed within thirty calendar days of the determination of 504 initial eligibility.

Prior to the initial 504 Plan meeting, a copy of the 504 Eligibility Committee Summary Report and Notification of the 504 Plan Meeting must be forwarded to the parent.

504 Plans should be reviewed annually.

Prior to annual 504 Plan meetings, notification of the meeting must be completed. Written Notification (IEP online) should be sent to the parent in reasonable time to allow the parent to prepare for the meeting. It is recommended that phone contact be made. Other meeting participants:

- The school-based 504 Chairperson
- The student (when appropriate)
- Staff who have knowledge of the student
- A teacher of the student

At this meeting the parent should be encouraged to actively participate with the school staff members to develop a plan which meets the student's needs.

Appropriate Accommodations

The 504 Plan Team should only agree to accommodations directly related to the student's impairment that are needed by the student to provide equal access to the curriculum and instruction.

Supports/accommodations may be provided for concerns that are indirectly related to the actual disability (e.g., side effects of medication).

Accommodations must reflect specific areas in which a substantial limitation is documented.

Accommodations must be supported by evaluation data.

Accommodations should be clearly defined. Define the conditions under which the accommodation is provided and how it is provided.

Example: Instead of the accommodation "extended time", the accommodation should be defined more clearly, such as "up to 50% extended time for assignments requiring a written response exceeding one paragraph."

NOTTOWAY COUNTY PUBLIC SCHOOLS

SECTION 504 RIGHTS AND PROCEDURAL SAFEGUARDS

As the parent(s) of a child with a disability under Section 504 or a child who is suspected of having a disability under Section 504 you should know and understand the procedural safeguards that are in effect to protect your rights and those of your child.

- Nottoway County Public Schools offers a free appropriate public education to qualified children with disabilities who reside within the jurisdiction.
- Each year, Nottoway County Public Schools takes steps to identify and locate qualified individuals with disabilities.
- The appropriate education that is offered is designed to meet the individual educational needs of the children in compliance with Section 504 procedures.
- Prior notice to the parent(s) shall be given before an evaluation or change in placement takes place.
- In order to be found eligible, Nottoway County Public Schools will conduct an evaluation. The district shall consider information from a variety of sources, which may include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background and adaptive behavior. Any tests utilized will be administered by trained persons and validated for the specific purpose for which they are used.
- Tests will be administered in the child's primary mode of communication to obtain valid results.
- Identification of an individual with disabilities will be based upon all evaluation data and information from a variety of sources.
- The eligibility will be determined by a multidisciplinary team. If eligible, the placement decision will be made by a group of persons who are knowledgeable about the child, placement options, and the interpretation of test data.
- Any placement must ensure maximum integration in general education.
- Non-academic and extra-curricular activities shall also provide for integration of children with disabilities in general education to the maximum extent possible.
- The education that is provided for a qualified individual with disabilities must be provided free of charge except to the extent fees are imposed on non-disabled persons.
- Parent(s) have the right to examine relevant documents and records regarding their child.
- Disagreements over identification, evaluation, or placement may be resolved in a hearing. The parents have the right to attend the impartial hearing, be accompanied by counsel, and present evidence.

DISPUTE RESOLUTION

Nottoway County Public Schools is committed to working with all parents whose children attend our schools. To that end, if a disagreement arises with a parent regarding a Section 504 matter and cannot be resolved by the Section 504 Team, Nottoway County Public Schools offers to resolve the issue in the following manner:

- The parent should put the concern in writing and direct it to the Coordinator of Section 504. A form can be obtained by contacting the Coordinator of Section 504. If the parent is unable to put the concern in writing, the parent should contact the Coordinator of Section 504 who will assist in documenting the concern in writing.
- The Coordinator of Section 504 may choose to invite the parent to meet and review the parent concern and determine if resolution of the issue can be achieved informally.
- The Coordinator of Section 504 may provide the parent with the opportunity of mediation services to resolve the matter. Mediation is voluntary on the part of both the parent and Nottoway County Public Schools. If both agree, a Mediation Services Request form will be completed by the parent and the Coordinator of Section 504 to forward to the Virginia Department of Education's office that manages the special education mediation system. This service is at no cost to the parent. The special education mediators are trained on Section 504 law and regulations.
- The parent or Nottoway County Public Schools may also request a due process hearing to resolve the matter. Nottoway County Public Schools utilizes the Virginia Department of Education's special education hearing officers to hear Section 504 disputes.

Additional information regarding the mediation system and due process hearings is available by contacting Nottoway County Public School's Coordinator of Section 504, and/or the Virginia Department of Education's web site at: <http://www.pen.k12.va.us>.

- A parent may also file at any time a written complaint with the federal Office for Civil Rights. For a copy of the Office for Civil Rights complaint form and procedures, the parent may contact:

Washington DC (Metro)
Office for Civil Rights
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1475

504 DISCIPLINE POLICY

Applicability

This policy applies to students who have been identified as disabled under §504 of the Rehabilitation Act of 1973. It should be noted that in addition to the requirements set forth in this policy, the regular disciplinary procedures must be followed.

Short-Term Suspension of Ten (10) Days or Less

Section 504 students may be suspended for 10 days or less by following the same disciplinary procedures applicable to all students.

When short-term suspensions reach or exceed an aggregate eleven days, the case should be reviewed by the 504 Team (including the parent and appropriate personnel) within ten days of implementing the most recent suspension. The immediate purpose of the review is to determine when these suspensions amount to a significant change in placement. Factors to consider in determining whether the multiple short-term suspensions amount to a significant change in placement include (1) the length of each suspension, (2) the proximity of the suspensions to each other, (3) the total amount of time the student will be excluded from school, and (4) whether the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals. If, in considering these factors, the 504 Team finds that additional suspensions will result in a change in placement, then a complete Manifestation Review must be done.

Long –Term Suspensions and Expulsions

Manifestation Determination Review (MDR) Required

Prior to imposing a long-term suspension or expelling a 504 student, a committee composed of individuals knowledgeable about the student and the student's disability must determine whether the misconduct giving rise to the disciplinary action was a manifestation of the student's disability. There is not a prescribed composition for the committee; however, the members must be knowledgeable about the student through direct observation or review of the records. A suggested composition might include the following individuals and others as appropriate: the student's teacher(s), the principal or assistant principal, a school psychologist, and a guidance counselor. The parent must be invited to participate in the Manifestation Determination Review meeting. The MDR form and the Prior Written Notice form should be used to document those in attendance, summarize the information considered by the committee, and explain the decision of the committee and the rationale for the decision.

If the student's conduct is not a manifestation of the student's disability, the 504 student may be disciplined by utilizing the regular disciplinary procedures as there is no continued requirement for the provision of FAPE while the student is on discipline. If there is a manifestation, the student may not receive a long-term suspension or expulsion but may receive a short-term suspension provided it does not amount to a significant change in placement.

Parents should be advised at the manifestation meeting, or following the meeting if they do not attend, of their right to challenge the manifestation determination by filing for an impartial hearing under 504 of the Rehabilitation Act.

Exception to Section 504 Discipline Procedures

There is an exception for students who have been identified as disabled under Section 504 and who are recommended for discipline arising from the current use or possession of alcohol or illegal drugs. These students may be disciplined by using the procedures applicable to students without a disability but do require the Manifestation Determination Review (MDR). These cases do not require the use of additional procedures outlined above, including impartial hearings. The impartial hearing procedures of 504 may not be utilized by the students in these situations. The disciplinary action taken must be consistent with the disciplinary action applied to regular education students for these same offenses.

Provision of Educational Services while on Suspension or Expulsion

Section 504 students are not entitled to receive educational services while on suspension or expulsion unless educational services are provided to non-disabled students under the same circumstances.

Non-Discrimination on the Basis of Disability

No otherwise qualified disabled person shall, solely by reason of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives federal financial assistance. For purposes of this policy, a qualified disabled person shall be one who satisfies the definition set forth in the Rehabilitation Act of 1973 and its implementing regulations.

The 504/ADA Coordinator will be responsible for the implementation of these policies and procedures.

The Nottoway County Public School system does not unlawfully discriminate on the basis of sex, race, color, age, religion, disabilities or national origin in employment or in its educational programs and activities.

Additional Information

Standardized Testing

Students with 504 Plans may qualify for accommodations on standardized tests. Any testing accommodations must be in compliance with state and local testing regulations and must reflect accommodations the student needs and receives on a regular basis to access the curriculum. Case managers should contact the Division Director of Testing and/or the school Guidance Counselor for the most recent information regarding accommodations. Information is available on the Virginia Department of Education's Web site <http://www.pen.k12.va.us>.

Data Entry in IEP Online

Eligibility for 504 must be recorded in IEP online.